COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:
Mr A Tantari MP—Chair
Mr SA Bennett MP
Mr PS Russo MP
Mr JP Lister MP
Mr RCJ Skelton MP

Staff present:
Ms L Pretty—Committee Secretary
Ms A Bonenfant—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE CHILD SAFE ORGANISATIONS BILL 2024

TRANSCRIPT OF PROCEEDINGS

Friday, 19 July 2024

Brisbane

FRIDAY, 19 JULY 2024

The committee met at 11.20 am.

CHAIR: I declare open this public hearing for the committee's inquiry into the Child Safe Organisations Bill 2024. My name is Adrian Tantari. I am the member for Hervey Bay and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest living cultures in Aboriginal and Torres Strait Islander people whose lands, winds and waters we all share.

With me here today are Mr Stephen Bennett, the member for Burnett and deputy chair; Mr Robert Skelton, the member for Nicklin; Mr Peter Russo, the member for Toohey, who is substituting for Ms Cynthia Lui, the member for Cook; and Mr James Lister, the member for Southern Downs, who is substituting for Dr Mark Robinson, the member for Oodgeroo. This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation but I remind witnesses that any intentional misleading of the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. To assist the committee, please turn your phones off or to silent mode.

EDWARDS, Ms Anne, Executive Director, Operations, Queensland Family and Child Commission

LEWIS, Ms Natalie, Commissioner, Queensland Family and Child Commission

SMITH, Mr Christopher, Executive Director, Corporate Services and Governance, Queensland Family and Child Commission

TWYFORD, Mr Luke, Principal Commissioner, Queensland Family and Child Commission

CHAIR: Good morning. Would you like to make an opening statement before we start our questions?

Mr Twyford: Thank you, Chair. I too would like to acknowledge that we are meeting on the lands of the Yagara and Turrbal people. I welcome this significant bill. It has been a long time coming and there has been extensive expert debate and consultation on its details. It is time to implement a model for child safe standards and a reportable conduct scheme in Queensland.

When news breaks that a child has been sexually abused we all feel outrage and concern and we rightly ask ourselves what more could have been done. The implementation of a child safe organisation system in Queensland is a clear answer to that question. It has now been seven years since the royal commission recommended this nationally consistent scheme and Victoria, New South Wales and Western Australia have all implemented these systems. In 2017, the royal commission reported a sobering reality that tens of thousands of children experienced abuse in almost every type of institution where children lived or attended. While much work has occurred following the royal commission, child sexual abuse and maltreatment is still occurring and it has a devastating impact. The Australian Child Maltreatment Study of 18 months ago found that 23 per cent of Australians had experienced child sexual abuse and for more than three-quarters of those children that abuse was experienced in repeated instances. The Australian Bureau of Statistics Personal Safety Survey estimated there are 195,000 people in Australia who were sexually abused within institutions that were meant to care for them, by the age of 15.

In the last month, Queensland papers have continued to report on serious child sexual abuse that is occurring in our community. Even today there are reports about men who have accessed and shared child sexual exploitation images online. It is time to introduce a new protection scheme for our children. The child safe standards scheme created by this bill will implement proactive factors across our society that prevent opportunities for abuse and maltreatment, and the reportable conduct scheme will implement a clear process to identify and respond to concerning behaviours that may not yet reach a criminal threshold. Together with police enforcement of crimes and the blue card scheme, this child safe organisation system will create a more effective, proactive, protective safeguard for our children. I confirm that the Queensland Family and Child Commission is ready to receive responsibility for running these schemes and we are committed to their successful implementation for the benefit of all Queensland children.

Mr BENNETT: Commissioner, in your opening statement you mentioned national consistency and that we are playing catch-up nationally, if you like. Are there other components that may not have been included but that you think the committee might like to make recommendations on?

Mr Twyford: At this stage, no. I think the imperative is to have the bill passed and the system implemented. Already within the bill there is a process for future review where we could understand better how the implementation has occurred within Queensland. There are some nuances. Overwhelmingly, the 10 child safe standards are universal across Australia but there are some changes. For example, the universal principle proposed by this bill is presented as an 11th standard in Victoria. Whilst we are pushing for national consistency, I think it is important that each jurisdiction chooses the manner in which it implements and articulates a nationally consistent scheme and that is what this bill achieves.

Mr BENNETT: I do not really know what the acronyms mean, but at page 6 of your submission you talk about one independent agency that is operating in Victoria which you see as a success. Your submission states, 'We maintain the opinion that managing the regulation of both the CSS and RCS ... will enable efficient flow of information' and you make the point that this combination is successful in Victoria. Could you elaborate on that a little?

Mr Twyford: Yes, that is correct. The Family and Child Commission equivalent in Victoria includes both a principal commissioner and a commissioner who is a First Nations commissioner. They operate those dual schemes. Our commission is very much connected to them and asks around their learnings and lessons from implementation and also the Victorian experience in terms of the modelling that was conducted prior to their bill being introduced how that translated to their lived experience and, obviously, their public reporting showing the number of child safe standards matters that are coming to their office as well as the number of reportable conduct reports that they are receiving. We are working closely with them. Their key message is that it is a large job and it is a significant job but it is an important job. They are actually incredibly proud of how they have protected numerous children and also excluded adults from contact with children who posed a real and immediate risk.

Mr RUSSO: Commissioner, if the bill is passed your role will be strengthened in the context of advancing the rights of children. How will this role be practically administered?

Mr Twyford: That is a large question. Should this bill pass, significant resources would come to the Queensland Family and Child Commission. Our implementation planning has commenced but would take on a much more fulsome role upon passage of the legislation.

I think there are three key elements. There is the community capacity building and awareness raising that would be fundamental to phase 1. At this point, I acknowledge that the bill proposes a very sequenced rollout across phases over multiple years so it is providing and recognising the large-scale impact of the passage of this bill. The first stage is community building and awareness raising, so ensuring that we have staff appropriately in place within the commission who are not only delivering that but actually working with key partners who are already key partners of our commission—the Daniel Morcombe Foundation, Project Paradigm, Aboriginal organisations and entities—as well as new sectors for us such as sporting groups and volunteer organisations. We will ensure that we are building their capacity to also do that community awareness raising.

The second element would be around the universal principle, ensuring that there is a First Nations led approach to the development of the guidelines that would be necessitated around the implementation and then the regulation of that universal principle. Thirdly, it is building our internal regulatory approach to ensure that we are using a collaborative regulation model where we are working with the regulated sectors to ensure that they are empowered and able to fulfil the requirements that this bill would set out.

Mr LISTER: Under section 24 of the bill, the commission has the discretion to publish noncompliance details regarding an applicable organisation. Can you give some indication as to how you would seek to exercise that power and what factors you take into account in deciding whether or not to exercise that discretion?

Mr Twyford: It requires a level of speculation given the bill is yet to pass and we are yet to turn our mind to the internal structures within the department. There would need to be a positive outcome from taking such significant action as publishing someone's details. That might be either as a deterrence to other entities and organisations or a compelling reason for that individual and organisation themselves. I think it does turn on a number of legal considerations. It would certainly not be the standard practice to publish those details, but there would be something unique within the case that would suggest that there is a reticence or a reluctance within the organisation to have implemented the standards or, indeed, an objection to some of the standards that requires a public airing of what that might be and how it would be resolved.

Mr SKELTON: The bill directs child safe entities to comply with the universal principle and noncompliance may be enforced by the QFCC. As the commission develops guidelines about the application of the universal principle, what consultation will be undertaken with First Nations communities, as an example, and potentially multicultural and other diverse communities around Queensland?

Ms Lewis: For us, that is absolutely non-negotiable. We will absolutely be partnering with Aboriginal and Torres Strait Islander organisations, with their peak bodies and where possible with children and young people to inform the development of those guidelines. Similarly for our partners like Multicultural Australia, it is really important that as a state we understand that these are safeguards for all children and that those rights and that access to justice need to be accessible for all children irrespective of their background or what part of Queensland they live in.

CHAIR: The provisions of the bill will apply to a diverse range of organisations. How will the QFCC tailor its educational and capacity-building activities to particular sectors or organisations?

Mr Twyford: At present, the Queensland Family and Child Commission has a very clear strategic goal around partnerships and enabling and empowering other organisations to achieve the outcomes that we seek to achieve. When we think about early childhood centres, sporting organisations and volunteer organisations, it really would be my approach as the principal commissioner to ensure that all of that work is done through a spirit of partnership and collaboration. I believe a great number of sectors have peak bodies and regulators already in place and established. It is about ensuring that we are building on the work of those organisations and what they have already done. Indeed, many national organisations or organisations that operate across state boundaries are already in many ways living and breathing child safe standards schemes in their operations in Queensland. It is about an uplift in the capacity building done through a spirit of partnership and collaboration.

CHAIR: You will be able to draw from that uplift and cooperation in other states, where you may have the good and the bad that comes from that cooperation, and you would be able to deploy that here in this state?

Mr Twyford: Absolutely. All organisations in Western Australia, Victoria and New South Wales that are already running these schemes actually meet as a national group to share best practice and to share resources and materials. We will be making sure that we are very much in lockstep with what is occurring. Obviously, religious institutions and other education systems have already taken it upon themselves to implement child safe standards within their internal policies and procedures. We have seen that post the 2017 royal commission. By bringing the law into effect in Queensland, it actually builds on the work that those organisations have already proactively led themselves.

Mr BENNETT: I am curious about the working with children component. I have been here a long time now and that particular subject has iterations and is currently before another committee. You referenced a New South Wales model although I am not sure what that model is. I am curious to see whether there would be any reforms within the working with children process and the blue card system that you would see as a priority from your perspective given the work that you do?

Mr Twyford: Certainly we support the bill that is before the House to reform the blue card scheme. We appeared at that committee earlier this week to voice our support. To break it down simply, the blue card scheme is an effective protection for children against adults who have already been charged or convicted of crime. That works when the adult has been caught. A child safe standards scheme actually addresses the other end of the compliance spectrum by ensuring that all

organisations are operating in a child-safe way and that there is safety that is proactive and preventive. The reportable conduct scheme fills the middle gap between those two and tries to identify and respond to adults who have concerning behaviour that is not yet at the criminal threshold.

It is all three parts of that system working effectively together—and I note the bill has strong information-sharing provisions for that very reason—to create a culture and a society where abuse and maltreatment is prevented. It is having a reportable conduct scheme that sees the first early warning signs and is able to respond to an adult who is potentially predatory and a blue card scheme that completely excludes people who have been caught committing crimes. All three need to work together. For too long, I think, in Queensland we have seen blue card as the sole protective factor for children. This bill introduces the two critical elements of prevention and early warning response.

Mr BENNETT: I am going to be very lazy here as I have not read your contribution in *Hansard*, but is there one standout in the reforms that you gave evidence on earlier in the week that you could bring to our attention for those blue card reforms?

Mr Twyford: Certainly we are very much committed to and are championing the removal of blue cards from kinship carers in the child safety system. We do not see that raising a child relative is child related employment. We strongly support the bill for that reason.

Mr BENNETT: Has any consideration been given to the somewhat negative connotations, particularly for First Nations communities, when what might have been a historic conviction from 10, 20 or 30 years ago prevents an employment opportunity in remote areas? Has any thought been given to how we could make that more equitable?

Mr Twyford: Perhaps I will start and others can join in. Certainly the bill before the House on blue card proposes to move away from an arbitrary decision-making model to a risk-based decision-making model. We strongly support and believe that that will help decision-makers make far more nuanced individual and stronger decisions on individual cases, which would address some of that concern that the arbitrary nature of decision-making is excluding people who are not a risk to children.

Mr RUSSO: To expand on that, in a previous hearing we looked at the impact of the blue card on First Nations communities. I do take on board that the new amendments will help in that space. Is there a danger that this legislation will have adverse impacts on First Nations communities, because we saw that the blue card did not really deal with individual communities?

Ms Lewis: The introduction of the child safe organisation standards and the reportable conduct adds an additional safeguard that I think leaves the door open to further consideration about blue card reform to address some of those issues that were brought up particularly in relation to the employment of Aboriginal people. It is not in this bill that we are talking about, but certainly in relation to the amendments to blue cards we could go further in terms of addressing issues of historical practices and some may argue contemporary practices around overpolicing and hypersurveillance of Aboriginal and Torres Strait Islander people, which results in significantly different consideration of their criminal history. What is important about the interaction with the blue card system in this bill is that it is organisationally focused and, therefore, may leave room for us to address the over-reliance on blue cards to make a determination about the safety of children and young people.

Mr BENNETT: I appreciate that you indicated that the bill has not passed yet. Has any consideration been given to the potential impacts on the ability of organisations to adopt these very important and, we all feel, welcome reforms? What impacts may it have on organisations, to make sure that they are doing the right thing?

Mr Twyford: The department of child safety led a public consultation process—I am going to say last year; the timing might be roughly off but between 18 months and 12 months ago—that very much presented modelling on the costs of implementing schemes both within government and private practice. Our submission to that public consultation was very clear that, whilst it may require additional changes within organisations and it may come at some cost to private practice, the cost of responding to child sexual abuse is an enormous not just financial cost but also emotional cost on our society. Therefore, the benefits of the scheme far outweigh what might be a cost to change the system or to implement new policies and training.

Mr BENNETT: I do not think anyone objects. The department has undertaken a consultation process but I wonder about more public education and organisational education and familiarisation with the requirements. Is that something that will come before your remit as the legislation is enacted?

Mr Twyford: Absolutely. Should this bill pass, it sets some quite clear timeframes for implementation with different phases and different parts of the sector coming in at different times. Year 1 would very much focused on communication, education, training and capacity building without

any enforceable regulation. Having said that, year 2 for most sectors and certainly year 3 for some pretty significant sectors would still be a community engagement, community capacity-building stage. For this bill to have in-built a quite lengthy time for organisations to understand and adapt to the regulations is, I think, another clear reason why we give it strong support.

Mr BENNETT: Have there been some preliminary discussions around the coffeepot about what the resourcing of the commission might look like?

Mr Twyford: Yes. We understand that there is in the order of $40 million over the four-year forward estimates. That is a significant investment in the QFCC. Based on the modelling that the department led during that public consultation and also the advice from our Victorian and New South Wales counterparts, we think that is appropriate.

CHAIR: Commissioner, with regards to the potential of reforms, do you think there will be any impacts to the delivery of NDIS worker screening at all?

Mr Twyford: Yes, but I think it would be clear and easily understood. It is about the two schemes operating in harmony rather than there being contradiction between the two.

CHAIR: On a different matter, I note in your submission you refer to the bill establishing a phased approach to the commencement, under clause 2. Do you have any issue with regards to the order in which the phased stages will occur or do you think some tweaking could lead to a better situation?

Mr Twyford: No. I have been heavily consulted on that timing and I support it.

Mr BENNETT: Again, this may be premature and tell me if I am pushing: I suspect monitoring, enforcement, surveillance and all of those things will be more in-depth. How do you see that happening now? I guess there is a disconnect between the blue card being run by DJAG and the commission doing their important work. Will the monitoring and enforcement come back more to the commission's remit?

Mr Twyford: Absolutely. This bill will give us powers in relation to receiving reports and undertaking investigations into those reports. It very much sets up a premise that, in the reportable conduct scheme, the CEOs of organisations are the first party responsible for investigating what has occurred and providing a report to QFCC employees. Those employees would assess the report, form a view on whether the investigation has been thorough enough and whether the outcomes are valid. Then our options are to respond and confirm the investigation or to conduct our own.

With regard to the child safe standards and our legal ability, should the bill pass, to negotiate enforceable undertakings with organisations to have them uplift their behaviours and approach—both would give us legal powers. They are unique legal powers. They are not akin to what the commission currently has but, in terms of skill sets, both the Child Death Review Board and the oversight work that the QFCC currently does do involve the analysis of systems, looking at issues from an organisational perspective, assessing the policies, procedures and laws that are in place around a certain issue and producing an evidence-based report on what is working well and what could be improved. We certainly have staff with qualifications in investigations so we believe that it neatly fits within our organisational DNA. We will obviously be using the new resources to uplift in the areas where we do need that further skill set.

Mr BENNETT: Further to that, I am curious about the connection, as a statutory organisation, with departmental organisations that already exist—that is, Child Safety and Queensland Police Service. Are we potentially running parallel in the interests of children and families, because that would have traditionally sat with the department of child safety and the Queensland Police Service?

Mr Twyford: You raise a very good point. It is about how the systems operate in harmony and being duplicative or undertaking the same things. An investigation into a reportable conduct issue is really about how an organisation responded to a concern that an adult within its employment was behaving—

Mr BENNETT: As opposed to a family.

Mr Twyford: It is not an investigation into the incident and what that person did; it is an investigation into the organisational setting. It is making sure that our organisations are child safe and that there is an appropriate response. If I use the example of when someone operating in a predatory way is employed by an early childhood centre, does the management and CEO of that early childhood centre have a responsibility to ensure that the workforce they employ, the policies and procedures they utilise and the screening they use are all appropriate? That is the focus for this system and the Queensland Family and Child Commission staff. The criminal behaviour of an employee would still sit with police; the neglect or abuse of a child would still sit with the department of child safety.

Mr BENNETT: Thank you, and thank you for the work you are doing, by the way.

CHAIR: Your submission suggests an amendment to clause 13 of the bill to explicitly include the promotion of children's rights. Can you elaborate on why this addition to your prescribed functions is important?

Ms Lewis: This is a slight point of difference in terms of my personal view on the bill. I think it is really important to raise awareness about rights and to be explicit about that rather than to accept that it is implicit in the bill. Children and young people cannot assert rights that they do not know they have, so it is important for us to not only engage proactively in raising awareness about the rights of children but also make sure we are responding in a way that is rights affirming to those organisations.

CHAIR: There being no further questions, I would like to thank you all for attending today and for presenting your evidence to the committee.

INGLIS, Ms Carissa, Service Manager, Queensland Foster and Kinship Care

SMITH, Mr Bryan, Chief Executive Officer, Queensland Foster and Kinship Care

CHAIR: Welcome. I invite you to make an opening statement, after which committee members will have some questions for you.

Mr Smith: I would like to first acknowledge the First Nations people and communities on whose lands we are meeting here today and pay our utmost respects to elders past, present and emerging. QFKC, in its first iteration as the foster parents association of Queensland, started in 1976. We have been around for a while and we have been down a few legislation paths, if you like. The old legislation even at the time, in 1976, was archaic in itself. It took until 1999 to change that legislation, which was proclaimed in the year 2000.

Queensland foster and kinship carers have been through some rigour over the last 20 to 25 years: firstly through the CMC inquiry in 2003; following that as part of the Carmody inquiry in 2012; and in more recent times with reports into the very sad passing of Tiahleigh Palmer in 2016. We are not averse to the rigour and the regulation of the system and the way in which the system works. As an organisation—the staff, the management committee or board and its members—fully support the child safe standards and the implementation of these standards. They have been a long time coming, and they are needed. It also brings about a national standard with more rigour and fairness and which is complicit in terms of the standards we uphold for children and young people.

Secondly, everything that we get out of bed for in the morning is about children and young people being the centre of our world. As a foster carer myself for the past 32 years and a kinship carer over the last 14 years, I am well aware, and we are well aware as a family, of the regulation and the pressure that sometimes places not only on our families but also on the organisation with the recruitment of foster carers and finding families in regard to kinship care. Hence, our submission on this bill did not look at the child safe standards as we see should be passed as they are but on looking at more rigour around and what a reportable conduct scheme actually means to foster and kinship carers. We are talking about employees in the system. I have not heard the word 'volunteer'. As foster and kinship carers we are volunteers and that system does not change and that could affect volunteers in the future in terms of the layers of reportable conduct there could be. Hence, the submission we have provided.

Mr BENNETT: Thank you for coming along and for your submission. We have heard from the Queensland Family and Child Commission. My question is about how you see the partnership continuing with the commission as it progresses. Have you been fully involved with stakeholder engagement on the passage of this bill?

Mr Smith: Yes, we have. Again, our relationship with the commissioners is very strong.

Mr BENNETT: They have stayed to hear your recommendations so that is always a positive. Is there anything else you would like to bring to our committee's attention in relation to the drafting of the bill and the proposal before us today?

Ms Inglis: In reading the bill, some of our biggest concerns are in relation to its unintended consequences. We have referred in particular to section 35 which talks about there needing to be an initial plan provided to the commission about the investigation that is taking place and what steps are taking place to ensure the safety of the child that the reportable conduct relates to. The example provided in the act is: what immediate steps have been taken to prevent the worker from having conduct with the children? That raised some real concern for us because in the context of harm reports, which is equivalent to the reportable conduct, the department of child safety have clear processes in place that identify whether it is, in fact, necessary to remove a child from a family-based placement when harm has been reported. They will only remove a child when harm has been reported where they are not able to mitigate the risk, where they identify immediate risk and there is no ability to mitigate that risk because, in fact, removing a child from a family-based placement could be more harmful to the child than the harm that has been reported that could be mitigated.

Our concern with that being in legislation is that one of the issues that we continue to experience in child safety is the turnover of child staff. We have some staff members who come into the department with little experience and we have turnover consistently. The unintended consequence of our department workers not necessarily understanding the intent of this could be seeing more removals take place. So an increase of removals. At the moment we are right in the middle of the residential roadmap and the key to that is about reducing the number of children and young people in residential care. We have the most children in residential care in the entire nation. We are working hard to reduce that and increase our family-based placement and increase the

experience of children and young people being able to be raised in family-based placement and by kin. The concern is that there may be a kneejerk reaction to this and unintended consequences and an expectation that if a harm report is raised that one of the steps that child safety needs to take is to remove that child when, in fact, there are other alternatives that the department employ at the moment and that can work.

Mr RUSSO: Your submission calls for resources to support the implementation of these reforms, especially in relation to small and community-based organisations being able to meet their obligations. Bearing in mind Queensland is a large state, can you tell us what additional support you believe the regional and remote community organisations may need?

Mr Smith: With regional and remote communities in Queensland, because we are such a decentralised state in the way in which we work, we see every day that it is very difficult to actually get to the regions, especially when you look at the Far North and north-western communities, so we have to ensure—whether it is through the commission, the work the commission does or through other agencies such as the Department of Child Safety, Seniors and Disability Services—that there are resources available for those communities that can be first of all accessed but also that there is a thoughtful process about how we go about that in terms of a realistic way for those communities, one, to understand it and, two, implement it. We would not have a clue about the cost, to tell you the truth. That is up to government and the agencies themselves but we need to ensure the workforce that is available is accountable and able to implement a system that is understood and recognised by those communities as being workable.

Mr LISTER: I will be frank, I was listening to what you were saying before about concerns about taking a child from a kinship care arrangement prematurely or without significant grounds based on what might be a minor infraction. I hope you have heard this before because I get kinship and foster carers in my electorate say to me that their disappointment stems not from that but from kids being taken from a loving and supportive foster care environment because of the well-intentioned desire of the system to put those kids back with their family, but where they are exposed to drugs and trauma. I hear that all the time. Could you comment on that observation?

Ms Inglis: I think over the years the department of child safety has not been great at mapping family in those instances when children are first removed so that has resulted in children being placed with foster families. Concurrent planning has not occurred and we would definitely experience situations where children had been with what they see as their significant family for a number of years and then a family member would put their hand up to be assessed or considered and the transition for those children would be made without a lot of consultation, the views and wishes of the child being considered or without that connection being established first.

I think the department has come a long way. Concurrent planning came into legislation in 2018, so it is a requirement, although they still have a long way to go in terms of ensuring that takes place. Increasingly in the last couple of years, QFKC has seen a real shift to mapping family in those early stages of a placement. If they are not able to find a family-based placement in the first instance, there is some really good work occurring. Services have actually been set up to map families so that family can be identified early on, and family identified through the system have to be assessed and approved through the system.

The expectations of kinship care, in terms of legislative requirements that they have to meet as a kinship carer, are exactly the same as foster carers, so they have to meet the statement of standards and they have to meet all of the regulations that carers meet as well. What is also great is that over the years the support services—and that has a lot to do with Carmody. At the time the report was done, there was not a huge number of kinship carers being supported by foster and kinship care services, so they were left to their own devices. Now there is monitoring and support of kinship families and the foster and kinship care agencies have the skill sets to provide the support that the kinship families need in order to provide the best level of care to children and young people. In short, I think we have come a long way and it was very much needed.

The reunification of family members outside of kinship care placement is a tough one because there is a really high expectation about the level of care that carers are expected to provide. They can really struggle when a decision has been made that the child be reunified with a biological family member where the care they are going to provide is not necessarily to the same level. Of course, for our biological families it is about that good enough care and about safe care, and that can be really tricky for carers to navigate. Again, there needs to be lots of work done in that space and that recruitment and support stage to help carers understand that, where possible, and where the

department have made an assessment that a biological family is safe, we need those children returning to their birth families so that the family-based placements available to children who are not going to be able to return to their birth families for whatever reason are there and available.

CHAIR: My question is in relation to your submission and in particular the call that your submission has made for appropriate support and assistance to carers to respond to reportable conduct matters. Can you advise the committee on the current use of your legal program that supports carers in court, and has there been an increase in demand for the service in recent years?

Ms Inglis: QFKC was first funded for the legal position in 2019. We had advocated for it for many years. When we went from the Children Services Tribunal to QCAT, we found that it became increasingly difficult for carers to navigate the QCAT system because it became more and more legalistic. I was around in the Children Services Tribunal days and I found that that system was reasonable in terms of being able to navigate, but it was becoming increasingly difficult for even professional staff who did not have legal qualifications to navigate that system. We advocated for a legal position and that was provided to us in 2019.

The funding we get is equivalent to 3½ days per week, so it is not even a full-time position, and that covers the whole of Queensland. There are over 6,000 carers in Queensland, so it is certainly not enough. What it has been able to provide is limited legal advice appointments and limited representation to carers in QCAT matters and in Childrens Court matters relating to section 113 applications where long-term guardianship or permanent care orders are being sought. We have done our report for last year and overwhelmingly kinship carers were accessing the service. About 75 per cent of the carers who accessed the service were kinship carers relating to removals, certificates, cancellations but also placement decisions. You referenced where a decision has been made to place a child from a foster care placement, for example, to kin. That is a reviewable decision and carers can seek to have those decisions reviewed through QCAT. That is a very limited legal service that we have at the moment and certainly one that needs a great deal more funding, even just to keep up with what we currently have.

CHAIR: Your submission says that you support the ability for carers to bring a finding of reportable conduct to QCAT for independent consideration.

Ms Inglis: Absolutely. At the moment, when there is a harm report outcome of substantiation, there is no avenue for external review for carers. Any areas to have that harm report substantiation reviewed are internal to the department. There have been some attempts to seek external review through the Ombudsman, but our experience at QFKC is that those have not been picked up by the Ombudsman. Currently there is no ability for those outcomes to be reviewed. Carers, knowing that there are certain reviewable decisions through QCAT, often come to us and say, 'We would like this decision reviewed through QCAT,' but it is not currently a reviewable decision that they are able to have reviewed through QCAT.

Mr Smith: When reviews are undertaken by the department they are desktop reviews, so it is the current information that is available for them to review. In all cases those reviews are generally upheld, because it actually does not gather other contextual information that may be available. It is only the information that was there at the time of that investigation. There is no access at that point to gather other information or other contextual information to support a case.

Mr BENNETT: I was going to ask about the harm reports and the work that you as a peak organisation do in that particular space. Your submission welcomes the commission's involvement now in monitoring and helping, and I asked a similar question of the commission about how we expect that investigations, monitoring, surveillance and enforcement will all be part of that. For the kinship carer or the foster carer who has been through a process and is still unhappy—that is who usually comes to our offices—do we see anything in the legislation that is now more supportive of the process? Our role is to try to maintain as many people in the system to assist with our vulnerable young people. Is there anything you could alert us to that you have also seen as a positive in working with the commission in their expanded role?

Ms Inglis: There was a section that talked about the review of the decisions, which we have just touched on. It would be QFKC's view that if a carer could bring an application to QCAT around a substantiation of harm or reportable conduct to be independently reviewed, that would be a real positive for carers and carers would see that as a real positive.

Mr BENNETT: How can going to QCAT be a positive? It is our experience in our offices that it is nothing less than—anyway, they are not here to defend themselves. It is not an ideal situation to force people who only have care in their heart to go off and undertake this process.

Ms Inglis: The reportable conduct scheme and the oversight of the commission provide a couple of layers. The first investigation and assessment would be completed by the department, and we suspect that with the introduction of reportable conduct the department will have to spend some considerable time looking at their policies, processes and procedures because currently harm reports are always out of time, they are often very punitive based, they lack information and they lack consultation. We have a view that with the introduction of reportable conduct there will be a focus internally from the department on what they need to do in that space. They are not going to be able to meet the requirements within the act under the current system in terms of timeframes, so they are going to have to do something. That is going to be the first positive thing.

The second positive layer will be that there will be an oversight from the commission. We hope that will achieve much more rigorous processes in respect of harm reports and much more fair and just processes. We would only see QCAT as a last resort, because we are hoping that those first two things that result from the reportable conduct scheme will mean that carers' experiences of the harm reports will be much better and that, if needed, carers will have that final course of action they can take if they feel they need an independent oversight.

Mr BENNETT: We are all pointing in the right direction, I am sure. Thank you.

CHAIR: There being no further questions, I want to thank you both for attending today and presenting your evidence to the committee.

KIYINGI, Mr Kulumba, Senior Policy Officer, Queensland Indigenous Family Violence Legal Service

SCHWARTZ, Ms Thelma, Principal Legal Officer, Queensland Indigenous Family Violence Legal Service

CHAIR: Good afternoon. Would you like to make an opening statement before we start our questions?

Mr Kiyingi: Thank you, Chair. I thank the committee for granting us the opportunity to appear before you today. I first acknowledge the traditional custodians of the lands on which we are gathered—the Turrbal and Yagara peoples. I pay my respects to elders past, present and emerging and extend my respects to Aboriginal and Torres Strait Islander peoples with us today.

The Queensland Indigenous Family Violence Legal Service, also known by its acronym QIFVLS, is appreciative of the opportunity to participate in the public hearing. As an Aboriginal and Torres Strait Islander community controlled organisation, our feedback comes from the standpoint of a family violence prevention legal service that provides a holistic model of care attending to our clients' legal and nonlegal needs. We welcome the measures taken to implement the bill, understanding that the bill adopts nationally consistent child safe standards and establishes a reportable conduct scheme in response to recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse.

QIFVLS supports the establishment of the bill and the overall intent of the government in adopting an integrated child safe organisations system that requires and supports organisations to implement the child safe standards while also providing oversight of reportable conduct through a reportable conduct scheme. We welcome the decision to install the Queensland Family and Child Commission as the independent body charged with oversight of the child safe standards and the reportable conduct scheme.

We are mindful that the child safe standards are intended to apply to a broad range of sectors providing services directly to children in institutional settings. We welcome the inclusion of justice and detention services, as provided for in schedule 1 of the bill, noting that this acknowledges our long-held concerns around conditions in youth detention and out-of-home care. Given the crossover between children who are in youth detention and the child protection system and their experiences as victim-survivors of domestic and family violence, our perspective is important for the government and for this committee to consider.

Our written submission pointed to our observations of family violence as an intersection point linking an Aboriginal and Torres Strait Islander person's connection to the child protection system, housing and homelessness, the youth justice system, the adult criminal justice system, family law and health. We note that the Australian Institute of Health and Welfare has previously found that family violence is the primary driver of children being placed into the child protection system, with 88 per cent of First Nations children in care having experienced family violence. We are also aware of government data revealing that from 53 to 60 per cent of all Aboriginal and Torres Strait Islander children in youth detention have experienced or been impacted by domestic and family violence. In that regard we see opportunities for Queensland's child safe standards and reportable conduct scheme to account for the experiences of Aboriginal and Torres Strait Islander children.

Our core concern is to ensure that the child safe standards and reportable conduct scheme directly address human rights obligations and cultural safety for Aboriginal and Torres Strait Islander children. We feel this has greater significance given the Queensland parliament's actions last year in twice overriding the Human Rights Act in the course of youth justice amendments.

A key consideration for our organisation in reviewing this bill lies in ensuring cultural safety from organisations towards Aboriginal and Torres Strait Islander children. It goes without saying that connection to culture is a vital protective factor for Aboriginal and Torres Strait Islander children. This is amplified for First Nations children in institutions.

While we welcome the establishment of a universal principle in addition to the 10 child safe standards, we had a preference, which we noted in our submission, to follow the Victorian model, where the universal principle is child safe standard 1 of 11 child safe standards. We acknowledge from the explanatory notes that the majority of stakeholders preferred the universal principle. On this point our submission called for the establishment of a dedicated, standalone Aboriginal and Torres Strait Islander children's commissioner. We acknowledge that this has been committed to by the government as part of the Community Safety Plan for Queensland and, should the bill proceed with

the universal principle alongside the 10 child safe standards, at the very least we call for the dedicated commissioner to have an oversight role in ensuring that organisations are complying with the universal principle.

From our vantage point, the legislation needs to be supported by action and a coordinated effort across government agencies and organisations that deliver services to children or which directly affect children. As a member of the coalition of peaks, we strongly believe that there is room for government agencies to work in partnership with Aboriginal and Torres Strait Islander community controlled organisations by leaning into the priority reforms of the National Agreement on Closing the Gap. This sentiment has been supported by the Productivity Commission in its groundbreaking review into government implementation of the priority reforms under the national agreement.

In supporting the passage, we wish to emphasise further points. Firstly, we draw attention to the submission of the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, QATSICPP, in stressing that any new regulatory system is culturally safe and features Aboriginal and Torres Strait Islander people oversighting systems that provide services and care for Aboriginal and Torres Strait Islander children and young people. Also, the guidelines outlined under clause 108 of the bill are critical in terms of the guidance for all organisations operating under the bill. In addition to a review of the act, we also call for a periodic review of the operation of the child safe standards and the reportable conduct scheme. We also wish to stress that smaller entities, particularly smaller Aboriginal and Torres Strait Islander community controlled organisations, will need comprehensive assistance and guidance in complying with their obligations under the child safe standards and the reportable conduct scheme.

CHAIR: Thank you for your opening statement. I will give the first question to the member for Burnett.

Mr BENNETT: In your submission you had some concerns about the commission being able to give exemptions to some reporting agencies or organisations. Can you explain from your perspective why those exemptions would exist? I think they are coming into effect after a period of time as things evolve. We are pushing things out by looking through a crystal ball. That is a statement. Can you explain the concerns you have raised about those exemptions?

Mr Kiyingi: I think this was to highlight that, whilst we understood the rationale for this provision, we noted that there may be the perception that larger organisations may have exemptions from reporting or may have exemptions from having external accountability. We sought to tie this back to the assistance that is going to be required to be provided for smaller organisations—in particular, the smaller Aboriginal and Torres Strait Islander community controlled organisations. Whilst there would be a requirement for compliance by smaller organisations, that also needs to be supported by resourcing, funding and capabilities for smaller organisations to ensure they can comply with the child safe standards and also with the reportable conduct scheme.

Mr BENNETT: Mr Kiyingi, what was your interpretation of why the exemptions were even mooted within the legislation?

Mr Kiyingi: We took it that the exemptions were to be provided on the basis that these would be larger organisations which have a level of self-sufficiency in being able to ensure there was a system in place in terms of child safe standards.

Mr BENNETT: That might already exist within their existing management frameworks?

Mr Kiyingi: Yes, and also in terms of reportable conduct. We have larger organisations which have those existing systems in place.

Ms Schwartz: Further to that, some organisations may, depending on their level of accreditation, in effect also have inbuilt mechanisms that already address it. I am not too sure how the guidelines and the practice will be in terms of the staggered roll-out. You might be just bolstering and building on what is in existence that other organisations through accreditation purposes have already built in. Some smaller organisations may not be subject to the same or similar accreditation standards and we are then lifting and building the capacity of those organisations to come up to the same level playing field, if that assists.

Mr BENNETT: Yes, of course.

Mr RUSSO: Are the exemptions to larger organisations of concern? I do not want to put words in your mouth, but I am trying to understand. If a larger organisation already has a framework for the reportable conduct, is it a concern that the QFCC would not have oversight of them? Have I misinterpreted that altogether?

Mr Kiyingi: It was mainly through a perception of the way the overall system is working in terms of being able to account for the discrepancies in terms of different organisations, having larger organisations and smaller organisations, and it also relates back to one of our central points about how smaller organisations with workforce capacity issues will be able to navigate child safe standards and the reportable conduct scheme from the point of compliance. I think that is really the background picture in noting that this is an overall point to be considered. Also, the underlying importance is how we can ensure smaller organisations can be assisted to comply.

CHAIR: This is probably more a question about an observation from your submission. With regard to the comment you make about First Nations women, in particular that they are less likely than other women to report family violence or seek support because of a range of factors, would you like to put on the record the range of factors that create nonreporting from First Nations women, from your experience?

Ms Schwartz: In relation to the nonreporting factor, one of the primary issues we see in our practice is a real fear that when she makes a report of violence it will trigger an automatic referral and notification to the department. The department will then remove her children because they are children in need of protection. That real fear compounds in her, and she would rather stay put and go through the rigours of a violent relationship with all of its manifestations than go through what Child Safety will do to her in terms of removing her children. I say that from the viewpoint that the primary focus of the case law in my practice across Queensland is defending child protection removals. That is the primary driver of casework that my legal team goes through.

We are seeing child protection litigation blow out now from a completion rate of 12 months to 18 months to two years. This is because we are still waiting on child protection services to provide us with case plans. As we navigate courtroom litigation, it takes a minimum of six months to get a case plan out of the department. What you are seeing here is a real fear. She knows that her children are going to be removed. We are then going to go through a truncated process of navigating the child protection system. We are then going to come up at the very end—two years hopefully, if we are lucky—to get a determination. There will be either a short-term custody order made or parental supervision agreements put in place. If it is a long-term guardianship order, we are going to fight those all the way right to the very end with the hope it is possible for her to be reunified with her children. I sat in here and listened to some of the commentary about reunification and children with foster carers. There is a very long delay here. With the greatest respect, if my clients are in a position to address the driving issues of child concern notifications—if it is because she was in a domestically violent relationship and she has now exited it—that should not be a reason for withholding her children.

It comes down to a real anomaly with the two systems in place. The domestic and family violence system is designed to protect and support her. As soon as it intersects with the child protection system, it does not. It treats her as a person who has willingly exposed her children to harm because she failed to leave that relationship. There are many reasons why our women stay in those relationships, as I have just identified to you, including a fear of removal of her children and the fear of engaging with police. We have seen that brought out in evidence from the recent report of the Women's Safety and Justice Taskforce. We have seen it again amplified in the report of the commission of inquiry into police responses to domestic and family violence. We know why they do not report. When we have these two systems that do not work cohesively, we get these anomalies. I understand the tensions of carers who look after children; I really do.

Housing is another key issue. As soon as a child is taken, housing goes. You can see the compounding effects of why she will not report and then what happens when she does and children then enter the system. This is then compounded by the fact that we have appalling rates of over-representation of our children in out-of-home care. The government committed to meet target 12 of the National Partnership Agreement on Closing the Gap to reduce the rates of over-representation of our children in out-of-home care by 45 per cent as we hit 2031. I do not know how we do this, other than to say we have been advocating very strongly for many years to work more closely with the department. We have put forward through our national peak body the adoption of an early child protection referral notification scheme. As soon as an Aboriginal or Torres Strait Islander child comes into contact with the system an Aboriginal or Torres Strait Islander community controlled organisation such as us should be contacted. We can work cohesively and effectively with the department to support our clients understand their rights and responsibilities, why the department is now looking at an intervention, how we get our clients back on track to have children in their care and grow children with culture, in culture.

Section 28 of the Human Rights Act espouses the cultural rights of Aboriginal and Torres Strait Islander peoples, the right to enjoy that freely, the right to be free from forced assimilation. It is in our Human Rights Act, but I am not seeing that. I am not seeing the application of the Aboriginal and Torres Strait Islander Child Placement Principle effectively throughout it. You can see why I get so frustrated. We can have all of the best intentions, but they do not work. They create other unintended consequences.

Mr BENNETT: In relation to the universal principle, which has been welcomed and rolled out, you made a good point about cultural sensitivities around the issue. How do we see this new provision particularly around First Nations children? There are some aspirations within your submission that you address. Can you help us understand how you see this new universal principle doing a lot more for First Nations children?

Ms Schwartz: I know in our submission we have spoken about having it separate and distinct. I understand from the very helpful explanatory notes that the universal principle will still have the same effect as a standard, including enforceability, and we really do welcome that. The reason we called for a separate and distinct standard really relates to our experience with the misapplication or nonapplication here in Queensland in practice of the Aboriginal and Torres Strait Islander Child Placement Principle in our child protection litigation practice. That was our concern. You have one principle that has been put there and, in theory, should guide the manner in which the department works with Aboriginal and Torres Strait Islander children, but it is not being appropriately applied throughout all decision-making.

We are coming across this, and I welcome that degree of oversight and enforceability. I think from that perspective it is probably more a drafting position. We looked at the position Victoria has taken and what has come out of the Yoorrook Justice Commission, the truth-telling inquiry, and the recommendations they have been making for further child protection reform and said, 'Do you know what? We like that standalone recognition,' but at the same time recognising that the universal principle here still has the same weight and effect as those standards that are already recognised.

Mr BENNETT: I did ask the commission about the working-with-children process and changes within the legislation. For the committee's benefit, is there any distinct issue you would raise with us in relation to those reforms, and are there reforms that could potentially improve the outlook for our more remote Indigenous communities? I am returning to the blue card issue.

Mr Kiyingi: We would support the Queensland Family and Child Commission's recommendations around kinship carers not having a requirement for the blue card but also accept the important cultural lens in Aboriginal and Torres Strait Islander communities. For instance, the department might see fathers or paternal cousins as kinship carers but in many communities that person is also a father, so that is really the family element and important cultural factor which needs to be accepted. On that point we support the QFCC's recommendations.

I also raise the Women's Safety and Justice Taskforce recommendations around women and girls in incarceration and the difficulties they face with being reintegrated into the community and the recommendations there about the importance of governments to provide assistance to women and girls in incarceration around blue card applications, just to assist with applying and also being guided through the process. That is an important factor which then helps to set up people once they come out and reintegrate into the community.

Ms Schwartz: If I can add a clarifying point in relation to the taskforce work, it has to be remembered that the terms of reference were very gendered. Taking the broader approach would include not only women and girls coming back out and reintegrating but also men and boys, if we are looking at it more broadly, and the broader impacts around the blue card reform which we otherwise support, particularly in our remoter communities.

Mr SKELTON: You mentioned a failure between the child protection system and the domestic violence system to interact in a way that is supportive in both areas because, as you pointed out, when a woman has potentially fled a domestic violence situation those children have been removed from that situation, but when that person is back on track it takes two years and an awful lot of heartache for everyone involved, including the foster carers, as we heard before. Is there any way those two departments could have some sort of liaison system where, when these cases present, they are looked at holistically rather than as two separate issues and it is more as an overview of one issue?

Ms Schwartz: I know that we have been advocating for a very long time about running both together, given the overlap. You can see where they are not working in harmony right now. When I look at children, particularly in the child protection system, and I look at foster carers as well who give

so freely to look after and raise those children while this process plays out, I always come back to how we minimise the ongoing harm to that child being within the system. What is really effectively in the best interests of that child? Are we doing more harm than good? If we could have a system that works more harmoniously, that works faster and more efficiently, that will require the department to work more consistently and harmoniously with other agencies in the sector.

Unfortunately, when I look at the litigation that comes into my practice, it does not matter where in Queensland we run it; this is adversarial proceedings in court. There are no holistic or trauma informed approaches to working to get the best outcomes for families. This is a frustration that I face. We cannot negotiate. No matter how far you can say, 'This is the nature of the evidence that you are presenting to me; it is not the best evidence,' you can get a real level of pigheadedness from the department, with all due respect, so that we are then forced to litigate right to the day of the hearing and then it is, 'Oh actually, we're not going to the hearing anymore. We are ready to negotiate.' That is a waste of court time but also, importantly, how long has elapsed for the court users and the children and those who support the children going through that system? I look at building system reform that takes into account those matters because currently it does not, with the greatest of respect to what is going on right now.

Mr RUSSO: Thelma, you spoke about the reluctance of people to come forward and make a complaint because their children may be removed. Is there a distinction between what happens with First Nations families? For example, if someone in Brisbane who is not First Nations reports a domestic violence issue, the children are not automatically taken into the system. Do I understand it correctly that it seems to be predominantly First Nations children who are removed?

Ms Schwartz: I believe on the data, as we understand that data, our children are removed at higher rates than non-Indigenous children. You can have a look at the SNAICC *Family matters report 2023* data snapshot, which gives the relevant rate of removal compared to non-Indigenous children. It is also based on the—I cannot remember if it is the Australian Institute of Health and Welfare reports that are released annually in relation to an overview of the child protection system. We are removed at higher rates than non-Indigenous children and we stay long term. Our children are removed younger than non-Indigenous children. We are talking about the children who are born—those suite of removals. We are talking about the grounds for removal. When I look at my practice, I see a number of cases where the child they are wanting to remove is pregnant and was also a child of the system. That is another ground for child safety services letting us know that they are going to make an application to remove that baby once he or she is born. These are the things that happen on the ground that we see consistently in our service and why I then see that on-flow effect that defending child protection matters is our primary case file loading in Queensland. It has exceeded the number of family law proceeding case work that we do in this state. It is quite concerning for us.

Mr RUSSO: My understanding is that when an order is made against the person who commits the act of domestic violence they are normally asked to leave the residence. Why doesn't that system apply to First Nations? If the perpetrator of the domestic violence has an order that says they are not allowed to approach within 100 metres of the place of work or place of residence, why can't the mum stay in the residence with the children?

Ms Schwartz: This is a very good question, and I can understand the policy reasons behind the creation of ouster orders. Let us take a real remote community, for example. What if she is not from that community? There is a real fear now of lateral violence. It is safer for her and better for her to leave the community with her children. She will then tap in and access the Escaping Violence Payments that are available so we can actually get her out of community. If I look at my big hub in Cairns, she will then come into Cairns and then we are looking at placing her in a safe place where she can go, hopefully with all of her children because we know that some refuges will not take children. There is screening for boys aged 14 and above. There is a risk screening that goes into place. That is a factor.

With the use of ouster conditions, yes, absolutely, we would certainly seek those if we are running the application, but what we see in our practice is that primarily police will do the applications. They may not, at that particular moment in time, also apply for an ouster condition to be added. If the victim-survivor is then not comfortable and she engages with us externally, we will then advocate for that additional condition to be added, if it is appropriate to do so in the circumstances, and she can stay put. The children can still engage in schooling and other activities. With our engagement through our nonlegal support case management work, we can then equip her with all of the other tools she needs to succeed. It might be: 'You know what? I actually need to access some grief counselling. I'm

misusing alcohol and drugs because of the trauma of the violence I've been through. I need to do this to make sure I stave off the potential for Child Safety getting concerned that these are children who need protection.' I am hoping that I have answered your questions, Mr Russo.

CHAIR: Thank you very much. Our time has expired. Thank you both for attending the hearing today and presenting your evidence to the committee. We appreciate it.

ASHTON, Ms Christine, Executive Director, Registration Services Branch, Department of Education, Non-State Schools Accreditation Board

WALTON, Mrs Patrea, Chairperson, Non-State Schools Accreditation Board

CHAIR: I welcome representatives from the Non-State Schools Accreditation Board. Would you like to make an opening statement before we start our questions?

Mrs Walton: I will begin by acknowledging the traditional owners of the lands on which we meet today, Meanjin, the Yagara and Turrbal peoples, and pay my respects to elders past and present. Thank you, Chair and committee members, for the opportunity to contribute to the public consultation regarding the Child Safe Organisations Bill 2024.

By way of background, the Non-State Schools Accreditation Board is an independent statutory body. It regulates close to 550 non-state schools providing education to more than 314,000 students in Queensland, that is, about one-third of students across the state. Non-state schools are an important and significant part of Queensland's education system. They provide valued and diverse schooling choices for families and the communities in which they operate. Many non-state schools educate international students or specialise in the education of students with disability or students who are struggling to engage with mainstream schooling.

For a non-state school to operate in Queensland, it must be accredited by the board. To obtain accreditation, the governing body of a school must be deemed by the board suitable to operate a school and it must comply with a number of accreditation criteria set out in the accreditation act. The board's functions are set out in the Education (Accreditation of Non-State Schools) Act 2017 and include assessing and deciding applications for accreditation of non-state schools, determining eligibility for government funding, monitoring compliance and conducting investigations about contraventions of or noncompliance with the accreditation act.

Among the accreditation criteria are several that deal with student welfare, including that schools must have in place written processes about how they will respond to harm or allegations of harm to a child. For example, these must include a process for reporting the conduct of a staff member that is not appropriate, sexual abuse or likely sexual abuse of a child, as provided in the Education (General Provisions) Act 2006, and reportable submissions of harm to a child under the Child Protection Act 1999, section 13E.

The suitability of a governing body to operate a school is determined by a number of factors including the conduct of the governing body or its directors in relation to the operation of the school and any other matter that the board may consider relevant. A governing body's compliance with the provisions of the Child Safe Organisations Bill will be a factor that the board should consider when deciding the suitability of a school's governing body. Given this context, the board's submission on the bill primarily relates to information sharing between the Queensland Family and Child Commission and the board as a sector regulator. The board's submission also seeks some clarity around what is meant by the head of a prescribed entity.

Firstly, I would like to deal with information sharing. Information sharing is also an essential element to achieve the royal commission's recommendations. So that the board can carry out its regulatory functions regarding the accreditation of a school, it needs to be fully informed about how a school is being operated by its governing body. While recognising and supporting the collaborative model of regulation in the bill, it is the board's position that the information sharing currently provided for in the bill needs to be strengthened.

In particular, the board considers that the commission should be required to give the board a copy of the following documents if they are issued to a non-state school: a copy of any assessment reports issued to a school, a copy of a noncompliance notice issued to a school where there has been a failure to comply as well as details of noncompliance; any accepted and forcible undertaking given by a school to the commission and any recommendation the commission makes to a school for actions to be taken in relation to a school's reportable conduct scheme systems. The reason the commission should be required to provide the board with a copy of these documents is that this information is relevant to the way the board performs its functions under the accreditation act. For example, it is relevant to the board when considering the ongoing suitability of a governing body whether the actions recommended to a non-state school by the commission in an assessment report have been substantially implemented and maintained by the school.

Similarly, a school's failure to comply with a compliance notice issued by the commission is relevant to the board when addressing the conduct of the governing body and, therefore, to considering the suitability of the governing body to continue operating as a school. Enforceable undertakings relating to non-state schools should be provided to the board to assist it in performing its functions under the accreditation act as well as under the bill. A governing body's conduct with regard to its interactions with the commission will be relevant to the board when deciding that governing body's suitability to continue operating a school.

I move on to the meaning of the head of a prescribed entity. The Non-State Schools Accreditation Board comprises seven members who are each appointed for no more than four years. It receives executive support from a secretariat and appoints authorised persons to conduct investigations under the accreditation act and regulation. The bill does not currently define who represents the head of a prescribed child safe standards entity or reportable conduct scheme entity for the purposes of information sharing. Given the structure of the board, it asks that the committee considers clarifying or more clearly defining who constitutes the head of a prescribed entity. Specifying which position of the board would constitute the head of a prescribed child safe standards entity or reportable scheme entity would help ensure the duties of the board under the bill are properly discharged.

In conclusion, the board supports the introduction of the Child Safe Organisations Bill. It also supports the proposed educative and collaborative model and approach outlined in the bill. That being said, the board is aware that schools in Queensland operate within an existing reporting framework that is already complex, containing multiple and varying reporting thresholds and timeframes. The existing framework also includes a number of individual penalties. The reportable conduct scheme will introduce additional requirements to the existing framework. Given that information sharing is integral to both child safety and best regulatory practice, the board's view is that it should be stronger than currently provided for in the bill. A strengthened approach will promote consistency, reduce duplication in regulatory activity and mitigate increased regulatory burden on schools.

That concludes my opening statement. Thank you for your time. We are happy to answer any questions that the committee members may have.

CHAIR: Thank you for your opening statement.

Mr BENNETT: In your calls for assessment reports and a lot of detailed information to be distributed from the new entity, what happens now about dissemination of information around reportable events within schools? How does the board see the strengthening of that sort of information? What exists now, for example, must give you some level of intelligence, I guess. My concern is about the confidential nature of this sort of information and maybe the pushback we would get from the commission in distributing and disseminating that information. Would you be able to comment?

Mrs Walton: I might pass that to the secretariat.

CHAIR: Before you answer, Christine, we just wanted to confirm whether you are speaking on behalf of the board and representing the board and not the Department of Education.

Ms Ashton: I am representing the board, not the Department of Education.

CHAIR: Thank you.

Ms Ashton: Currently the intelligence that the board gets from the existing framework primarily comes from concerns raised by parents or students within schools. What is currently proposed is that now there is another option for parents to go to in that there is the commission. The commission may get concerns or get reports from organisations or from other people about, for example, a child at risk of harm and the situation could have arisen in a school. If the commission does an assessment report and makes recommendations to the governing body of the school to rectify or oversee whatever was the outcome of its investigation, the board would not know about it unless the commission was required to provide a copy. Those recommendations that would be in that report from the commission to the school, whether or not the governing body complies with that or implements that, go to its suitability and also to the board's awareness of whether or not it is complying with the accreditation criteria that the board oversees in the accreditation act which goes to whether or not the school should continue to be accredited and whether there should be more monitoring activity or educative activity by the board in relation to that school.

Mr BENNETT: Currently, though, any sort of reporting incident or whatever would go to the principal or the P&F president or some entity, and wouldn't their obligations to your biannual or annual assessment of that particular entity—you mentioned 314,000 students, so I guess it is quite a complex process—already exist, that they would have to be disclosing that information when you sit down to make your assessment on their suitability to continue?

Ms Ashton: With regard to assessment of non-state schools by the board, there is only provision for a five-year cyclical almost like a self-assessment by the school. There is no monitoring of the school and its operations on a yearly basis or a biannual basis.

Mr BENNETT: Five years is a long time, isn't it? Thank you.

Mr RUSSO: I am interested in the crossover between what the board does in relation to a reportable offence and what the QFCC does. Isn't the legislation designed so that if an entity has a reportable offence they are supposed to report it to the QFCC?

Ms Ashton: That is correct, but the QFCC does not necessarily have to report or provide that information to the board. Under a collaborative model, one would expect that that would occur because of the relevance of that suspected offence or misconduct or reportable conduct.

Mr RUSSO: How is it dealt with, then?

Ms Ashton: At present?

Mr RUSSO: No. If the legislation is passed—

Ms Ashton: How is it dealt with?

Mr RUSSO:—how would it be dealt with?

Ms Ashton: If the legislation is passed, the way it would be dealt with ideally is that the commission would contact the board and they would look at probably how the issue would be dealt with jointly so that there is minimal impact on the school. For example, if an investigation needed to be done, there would probably be hopefully one investigation, not the board doing an investigation and the commission, but that depends on there being collaboration and the board knowing what the commission was doing. Currently in the legislation, what is provided is that the commission will publish any enforceable undertaking on a public register, so theoretically if the board wanted to know it would have to search a public register.

Under the current legislation, if it is passed, there is a discretion with the commission as to whether or not it would disclose compliance notices, but ideally in a collaborative model the commission would and the board and the commission would work together. What we are saying is that for the collaborative model to work it needs to be underpinned by a stronger information-sharing network so that the commission is required to disclose to the board any compliance enforceable undertakings or assessment report it issues to a non-state school because of the board's obligations under its act to oversee and make a decision as to whether or not there are any accreditation requirements that the school is not complying with. What we do not want to see is a school that the commission considers is not complying with the child safe organisations but the board continues to accredit. If it worked in an ideal world there would be open communication between the commission and the board, but at present—

Mr RUSSO: What you are saying is that say, for example, someone goes to the QFCC and reports a suspicion, the board may not find out about that until the QFCC have completed their inquiries?

Ms Ashton: That is correct.

Mr RUSSO: And there is nothing in the legislation that says that the board should inform the school?

Ms Ashton: That the commission?

Mr RUSSO: That the commission should inform the board?

Ms Ashton: No.

Mr RUSSO: Okay. Thank you.

Mr LISTER: On the point that the member for Toohey was raising before, allowing that the collaborative environment that you seek eventuates, what would be your position if the QFCC in its work arrives at an enforceable undertaking yet once you find out about that the underlying failures from which it sprang are distasteful to your organisation? Can you rule out that you would not take additional action and that you would just simply rely on the fulfilment of the enforceable undertaking?

I ask this just to try to eliminate any perception that there could be a problem with double jeopardy for an organisation—'We've just been through this with the QFCC and now you're on to us again'—or perhaps they are fallible and the matters are so serious that you could not contemplate keeping their registration. Can you foresee a situation where that might arise and, in spite of the best collaboration, you end up at odds with one another or forcing an organisation to go through the wringer again?

Ms Ashton: That is a hypothetical question.

Mr LISTER: I love hypothetical questions.

CHAIR: Yes, it is.

Ms Ashton: I do not think we could totally rule that out, but I think if a collaborative model is going to work then both parties would use their best endeavours to ensure that a school would not be placed in that situation. I would find it hard to see or envisage a situation where if an enforceable undertaking issued, say, by the commission was not being substantially complied with by a school and it related to matters that were also an accreditation requirement from the school, one would think that the commission and the board would be on the same page and that in order for that school to continue to operate it would need to be taking its responsibilities and honouring its undertaking with the commission. With any collaborative model between two regulators regulating the same thing, that is the risk.

CHAIR: This will be the last question.

Mr BENNETT: I will just make a statement. I will alert you to something that is in the public domain—it is nothing—but we have oversight of the Family Responsibilities Commissioner and they cannot even get information about school attendance as an organisation because of the concerns of safety and a whole heap of other parameters. We have been battling these sorts of issues about sharing of information for a long time in this committee as well. Anyway, I just make that comment, but it has been over a decade.

CHAIR: As there are no further questions, we have run out of time and we thank you both for attending today and presenting your evidence to the committee.

Mr BENNETT: Thanks for the work you are doing. It is great.

CHAIR: That concludes this hearing. Thank you to everybody who has participated today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 1.13 pm.